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UNITED STATE FEDERAL DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FILED
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RICHARD W. WIEKING
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SBA

Case No.: **06 6145**

Jerry Thompson,

Plaintiff,

vs.

Zante, Inc. A Nevada Corporation, dba The
Sands Regency Hotel, THE ORIGINAL
MELS, Inc., A California Corporation dba
Original Mel's Diner

Defendants

COMPLAINT FOR DISCRIMINATION
UNDER AMERICANS WITH DISABILITIES ACT
FOR FAILURE TO MAKE FACILITIES
ACCESSIBLE INJUNCTIVE RELIEF, ATTORNEY
FEES, COSTS, AND EXPENSES

COMPLAINT

Plaintiffs, Jerry Thompson asserts:

1. On July 26, 1990, congress enacted the Americans with Disabilities Act, 42 USCA §§12101 et seq., establishing the most important civil rights for person with disabilities in our country's history.

2. The congressional statutory findings include:

a. "some 43,000,000 Americans have one or more physical or mental disabilities...";

1 b. "historically, society has tended to isolate and segregate individuals with disabilities
2 and despite some improvements, such forms of discrimination against individuals with
3 disabilities continue to be a serious and pervasive social problem";

4 c. "discrimination against individuals with disabilities persists in such critical area as
5 public accommodations";

6 d. "individuals with disabilities continually encounter various forms of discrimination,
7 including...the discriminatory effects of architectural barriers", and

8 e. "the continuing existence of unfair and unnecessary discrimination and prejudice
9 denies people with disabilities the opportunity...to pursue those opportunities for which our free
10 society is justifiably famous..." 42USCA §12101(A)

11 3. Congress went on to state explicitly the purpose of the Americans with Disabilities
12 Act, to be:

13 a. "to provide a clear and comprehensive national mandate for the elimination of
14 discrimination against individuals with disabilities";

15 b. "to provide clear, strong, consistent, enforceable standards addressing discrimination
16 against individuals with disabilities..." and

17 c. "to invoke the sweep of Congressional authority...to regulate commerce, in order to
18 address the major area of discrimination faced day-to-day by people with disabilities." 42 USCA
19 § 12101(b)

20 4. Congress gave commercial businesses 1 and ½ years to implement the Act. The
21 effective date was January 26, 1992.

22 5. Nevertheless, Zante, Inc. a Nevada corporation doing business as Sands Regency
23 Hotel, is the owner and operator of a hotel located at 345 N. Arlington Ave Reno NV. 89501.
24 Defendant Zante provides Vans at the Airport to pick up and drop off guest of their hotel. The
25 Vans are not equipped for disabled. Once at the hotel Plaintiff discovered there was no access to

1 the restrooms, ~~at~~ ^{and} the buffet, ~~in~~ the show Room on the second floor. Finally, Defendant Zante
 2 failed to provide adequate guest rooms accessible for the disabled.

3 6. It is alleged that Original Mel's, Inc., a California corporation doing business as
 4 Original Mel's Diner operates an eating establishment in the Sands Regency located at 345 N.
 5 Arlington Ave. Reno NV. 89501. Although there is an entrance in the hotel for most of their
 6 guest, this entrance is not assessable for the disabled. In order for a disabled guest to enter the
 7 restaurant, he or she must go outside. In addition to the additional burden of being required to
 8 leave, the hotel to enter the restaurant, in the summer or winter this adds to the burden given the
 9 weather of Reno, NV. Finally, Plaintiff travels with a service dog that under State Law must be
 10 allowed access, to a business establishment. In this matter, Defendant Original Mel's told
 11 Plaintiff that he would not be allowed to reenter the restaurant with his service dog, despite his
 12 protest.

13 7. Plaintiff has requested Defendants and each of them to correct these violations but to
 14 no avail. Plaintiff seeks to redress his rights under the Americans with Disabilities Act and ask
 15 this court to issue injunctive relief against defendant to end the ongoing discrimination.

16 JURISDICTION

17 8. This court has jurisdiction under 28 USCA §§1331 and 1343

18 9. Plaintiff's claims are authorized by 28 USCA §§ 2201 and 2202

19 PARTIES

20 10. Plaintiff, Jerry Thompson, is a visibly disabled individual. Plaintiff has polyneuritis
 21 of the feet, which causes him to use a wheelchair.

22 11. Defendant, Zante, Inc. a Nevada corporation doing business as Sands Regency
 23 Hotel, is the owner and operator of a hotel located at 345 N. Arlington Ave Reno NV. 89501.
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1 20. Ignoring the federal statute and regulations, and contrary to elementary architectural
2 design, defendant failed to respond to the requirement of The Americans with Disabilities Act.

3 21. These excuses were pretexts for defendant's continued violation of the Americans
4 with Disabilities Act.

5 22. Commercial properties in the area have made the changes yet Defendants have
6 refused to correct this violation.

7
8 CLAIMS

9 23. Pursuant to Americans With Disabilities Act 42USCA §§ 12101 et seq., and the
10 federal regulations promulgated pursuant to this Act, 28 CFR 36.304, defendant was required
11 to make the commercial restaurant at 345 N. Arlington Ave., Washoe County Reno NV.
12 89501, accessible by to date, defendant has chosen not to do so.

13 24. By failing to remove the architectural barrier where removal is achievable, defendant
14 has discriminated against plaintiffs and violated the Americans With Disabilities Act readily,
15 and continues to do so.

16 25. Plaintiff has no adequate remedy at law, or otherwise, for the harm done by
17 defendant; and plaintiff has suffered and continues to suffer great and irreparable loss,
18 damage, and injury as a proximate result of the above mentioned acts, and conduct of
19 defendant, for which plaintiffs have no adequate remedy at law, Plaintiff will continue to so
20 suffer unless such acts and conduct of defendant are enjoined.

21 REQUEST FOR RELIEF

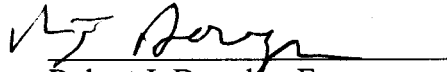
22 WHEREFORE, plaintiff respectfully request that this court;

- 23 1. Assume jurisdiction of this action;
- 24 2. Issue a temporary restraining order, a preliminary injunction, and, after
25 a final hearing, a permanent injunction restraining and enjoining

defendant, its agents and employees, from continuing its
discrimination; and

3. Award plaintiff appropriate attorney fees, costs, and expenses, and
such additional or alternative relief as may be just and proper.

Dated: 9-21-06


Robert J. Douglas, Esq.
Attorney for Plaintiff